

**PAID-UP  
OIL & GAS LEASE**

8/07- NY

Lease No. 1262248-000

This Lease, made this 16<sup>th</sup> day of June, 2008, by and between **Bruce A. Habberfield and Judith E. Habberfield, husband and wife**, whose address is **2184 County Road 8, Canandaigua, New York 14424**, hereinafter collectively called "Lessor", and **CHESAPEAKE APPALACHIA, L.L.C.**, an Oklahoma limited liability company, P.O. Box 6070, Charleston, WV 25362-0070, hereinafter called "Lessee".

WITNESSETH, that for and in consideration of One Dollar (\$ 1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and of the mutual covenants and agreements hereinafter set forth, the Lessor and Lessee agree as follows:

**LEASING CLAUSE.** Lessor hereby leases exclusively to Lessee all the oil and gas including, but not limited to coal seam gas, coalbed methane gas, coalbed gas, methane gas, gob gas, occluded methane/natural gas and all associated natural gas and other hydrocarbons and non-hydrocarbons contained in, associated with, emitting from, or produced/originating within any formation, gob area, mined-out area, coal seam, and all communicating zones, and their liquid or gaseous constituents, whether hydrocarbon or non-hydrocarbon, underlying the land herein leased, together with such exclusive rights as may be necessary or convenient for Lessee, at its election, to explore for, develop, produce, measure, and market production from the Leasehold, and from adjoining lands, using methods and techniques which are not restricted to current technology, including the right to conduct geophysical and other exploratory tests; to drill, maintain, operate, cease to operate, plug, abandon, and remove wells; to use or install roads, electric power and telephone facilities, and to construct pipelines with appurtenant facilities, including data acquisition, compression and collection facilities for use in the production and transportation of products from the Leasehold or from neighboring lands across the Leasehold, to use oil, gas, and non-domestic water sources, free of cost, to store gas of any kind underground, regardless of the source thereof, including the injecting of gas therein and removing the same therefrom; to protect stored gas; to operate, maintain, repair, and remove material and equipment.

**DESCRIPTION.** The Leasehold is located in the Town of **Milo**, in the County of **Yates**, the State of New York, and described as follows:

Tax Map No. **87.04-1-11.1**

and is bounded formerly or currently as follows:

- On the North by lands of: **David Voigt : Stuart Messur**
- On the East by lands of: **Richard McHale**
- On the South by lands of: **Harry Lewis**
- On the West by lands of: **David Voigt**

including lands acquired from **Bruce A. Habberfield : Thomas J. Karpovage, Jr.** by virtue of deed dated **June 9, 2000 : June 4, 1999 : October 2, 1998 : April 4, 1997 : September 5, 1996**, recorded in **Liber 439 : 416 : 408 : 393 : 390**, at **page 174 : 299 : 155 : 74 : 412** and described for the purposes of this agreement as containing a total of **31.00** Leasehold acres, whether actually more or less, and including contiguous lands owned by Lessor. ~~This Lease also covers and includes, in addition to that above described, all land, if any, contiguous or adjacent to or adjoining the land above described and (a) owned or claimed by Lessor, by limitation, prescription, possession, reversion or unrecorded instrument or (b) as to which Lessor has a preference right of acquisition. Lessor agrees to execute any supplemental instrument requested by Lessee for a more complete or accurate description of said land.~~

**LEASE TERM.** This Lease shall remain in force for a primary term of **five (5) years** from **12:00 A.M. June 16, 2008** (effective date) to **11:59 P.M. June 16, 2013** (last day of primary term) and shall continue beyond the primary term as to the entirety of the Leasehold if any of the following is satisfied:

- (i) operations are conducted on the Leasehold or lands pooled/unitized therewith in search of oil, gas, or their constituents, or
- (ii) a well deemed by the Lessee to be capable of production is located on the Leasehold or lands pooled/unitized therewith, or
- (iii) oil or gas, or their constituents, are produced from the Leasehold or lands pooled/unitized therewith, or
- (iv) the Leasehold or lands pooled/unitized therewith is used for the underground storage of gas, or for the protection of stored gas, or
- (v) prescribed payments are made;

If Lessee's operations are delayed, postponed or interrupted as a result of any coal, stone or other mining or mining related operation under any existing and effective lease, permit or authorization covering such operations on the leased premises or on other lands affecting the leased premises, such delay will automatically extend the primary or secondary term of this oil and gas lease without additional compensation or performance by Lessee for a period of time equal to any such delay, postponement or interruption.

If there is any dispute concerning the extension of this Lease beyond the primary term by reason of any of the alternative mechanisms specified herein, the payment to the Lessor of the prescribed payments provided below shall be conclusive evidence that the Lease has been extended beyond the primary term.

**EXTENSION OF PRIMARY TERM.** Lessee has the option to extend the primary term of this Lease for one additional term of **five (5) years** from the expiration of the primary term of this Lease; said extension to be under the same terms and conditions as contained in this Lease. Lessee may exercise this option to extend this Lease if on or before the expiration date of the primary term of this Lease, Lessee pays or tenders to the Lessor or to the Lessor's credit an amount equal to the initial consideration given for the execution hereof. Exercise of this option is at Lessee's sole discretion and may be invoked by Lessee where no other alternative of the Lease Term clause extends this Lease beyond the primary term.

**NO AUTOMATIC TERMINATION OR FORFEITURE.**

**(A) CONSTRUCTION OF LEASE:** The language of this Lease (including, but not limited to, the Lease Term and Extension of Term clauses) shall never be read as language of special limitation. This Lease shall be construed against termination, forfeiture, cancellation or expiration and in favor of giving effect to the continuation of this Lease where the circumstances exist to maintain this Lease in effect under any of the alternative mechanisms set forth above. In connection therewith, (i) a well shall be deemed to be capable of production if it has the capacity to produce a profit over operating costs, without regard to any capital costs to drill or equip the well, or to deliver the oil or gas to market, and (ii) the Lessee shall be deemed to be conducting operations in search of oil or gas, or their constituents, if the Lessee is engaged in geophysical and other exploratory work including, but not limited to, activities to drill an initial well, to drill a new well, or to rework, stimulate, deepen, sidetrack, frac, plug back in the same or different formation or repair a well or equipment on the Leasehold or any lands pooled/unitized therewith (such activities shall include, but not be limited to, performing any preliminary or preparatory work necessary for drilling, conducting internal technical analysis to initiate and/or further develop a well, obtaining permits and approvals associated therewith and may include reasonable gaps in activities provided that there is a continuum of activities showing a good faith effort to develop a well or that the cessation or interruption of activities was beyond the control of Lessee, including interruptions caused by the acts of third parties over whom Lessee has no control or regulatory delays associated with any approval process required for conducting such activities).

**FACILITIES.** Lessee shall not drill a well within 200 feet of any structure located on the Leasehold without Lessor's written consent. Lessor shall not erect any building or structure, or plant any trees within 200 feet of a well or within 25 feet of a pipeline without Lessee's written consent. Lessor shall not improve, modify, degrade, or restrict roads and facilities built by Lessee without Lessee's written consent.

**CONVERSION TO STORAGE.** Lessee is hereby granted the right to convert the Leasehold or lands pooled/unitized therewith to gas storage. At the time of conversion, Lessee shall pay Lessor's proportionate part for the estimated recoverable gas remaining in any well drilled pursuant to this Lease using methods of calculating gas reserves as are generally accepted by the natural gas industry and, in the event that all wells on the Leasehold and/or lands pooled/unitized therewith have permanently ceased production, Lessor shall be paid a Conversion to Storage payment in an amount equal to Delay Rental for as long thereafter as the Leasehold or lands pooled/unitized therewith is/are used for gas storage or for protection of gas storage; such Conversion to Storage payment shall first become due upon the next ensuing Delay Rental anniversary date. The use of any part of the Leasehold or lands pooled or unitized therewith for the underground storage of gas, or for the protection of stored gas will extend this Lease beyond the primary term as to all rights granted by this Lease, including but not limited to production rights, regardless of whether the production and storage rights are owned together or separately.

**TITLE AND INTERESTS.** Lessor hereby warrants generally and agrees to defend title to the Leasehold and covenants that Lessee shall have quiet enjoyment hereunder and shall have benefit of the doctrine of after acquired title. Should any person having title to the Leasehold fail to execute this Lease; the Lease shall nevertheless be binding upon all persons who do execute it as Lessor.

**LEASE DEVELOPMENT.** There is no implied covenant to drill, prevent drainage, further develop or market production within the primary term or any extension of term of this Lease. There shall be no Leasehold forfeiture, termination, expiration or cancellation for failure to comply with said implied covenants. Provisions herein, including, but not limited to the prescribed payments, constitute full compensation for the privileges herein granted.

**COVENANTS.** This Lease and its expressed or implied covenants shall not be subject to termination, forfeiture of rights, or damages due to failure to comply with obligations if compliance is effectively prevented by federal, state, or local law, regulation, or decree, or the acts of God and/or third parties over whom Lessee has no control.

**RIGHT OF FIRST REFUSAL.** If at any time within the primary term of this lease or any continuation thereof, Lessor receives any bona fide offer, acceptable to Lessor, to grant an additional lease ("Top Lease") covering all or part of the Leasehold, Lessee shall have the continuing option by meeting any such offer to acquire a Top Lease on equivalent terms and conditions. Any offer must be in writing and must set forth the proposed Lessee's name, bonus consideration and royalty consideration to be paid for such Top Lease, and include a copy of the lease form to be utilized reflecting all pertinent and relevant terms and conditions of the Top Lease. Lessee shall have fifteen (15) days after receipt from Lessor of a complete copy of any such offer to advise Lessor in writing of its election to enter into an oil and gas lease with Lessor on equivalent terms and conditions. If Lessee fails to notify Lessor within the aforesaid fifteen (15) day period of its election to meet any such bona fide offer, Lessor shall have the right to accept said offer. Any Top Lease granted by Lessor in violation of this provision shall be null and void.

**ARBITRATION.** In the event of a disagreement between Lessor and Lessee concerning this Lease, performance thereunder, or damages caused by Lessee's operations, the resolution of all such disputes shall be determined by arbitration in accordance with the rules of the American Arbitration Association. All fees and costs associated with the arbitration shall be borne equally by Lessor and Lessee.

**ENTIRE CONTRACT.** The entire agreement between Lessor and Lessee is embodied herein. No oral warranties, representations, or promises have been made or relied upon by either party as an inducement to or modification of this Lease.

**SURRENDER.** Lessee, at any time, and from time to time, may surrender and cancel this Lease as to all or any part of the Leasehold by recording a Surrender of Lease and thereupon this Lease, and the rights and obligations of the parties hereunder, shall terminate as to the part so surrendered; provided, however, that upon each surrender as to any part of the Leasehold, Lessee shall have reasonable and convenient easements for then existing wells, pipelines, pole lines, roadways and other facilities on the lands surrendered.

**SUCCESSORS.** All rights, duties, and liabilities herein benefit and bind Lessor and Lessee and their heirs, successors, and assigns.

**FORCE MAJEURE.** When drilling, reworking, production or other operations hereunder, or Lessee's fulfillment of its obligations hereunder are prevented or delayed by such laws, rules, regulations or orders, or by inability to obtain necessary permits, equipment, services, material, water, electricity, fuel, access or easements, or by fire, flood, adverse weather conditions, war, sabotage, rebellion, insurrection, riot, strike or labor disputes, or by inability to obtain a satisfactory market for production or failure of purchasers or carriers to take or transport such production, or by any other cause not reasonably within Lessee's control, this Lease shall not terminate because of such prevention or delay, and, at Lessee's option, the period of such prevention or delay shall be added to the term hereof. Lessee shall not be liable for breach of any provisions or implied covenants of this Lease when drilling, production or other operations are so prevented or delayed.

**SEVERABILITY.** If any provision of this Lease is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

**COUNTERPARTS.** This Lease may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Lease and all of which, when taken together, will be deemed to constitute one and the same agreement.

Addendum  
SEE ADDENDUM ATTACHED TO HERETO AND MADE A PART HEREOF.

**IF THIS LEASE BECOMES FORFEITED, TERMINATED, OR EXPIRES, THE LESSEE, OR IF THE LEASE HAS BEEN ASSIGNED, THE ASSIGNEE IS REQUIRED TO PROVIDE A DOCUMENT CANCELING THE LEASE AS OF THE RECORD, AT NO COST TO THE CURRENT LANDOWNER. IF THE LESSEE OR ASSIGNEE FAILS TO CANCEL THE LEASE, THE CURRENT LANDOWNER MAY COMPEL A CANCELLATION PURSUANT TO SECTION 15-304 OF THE GENERAL OBLIGATION LAW.**

**THIS IS A LEASE OF OIL AND GAS RIGHTS, NOT A SALE, CONTAINING TERMS THAT MAY BE NEGOTIATED BY YOU. YOU HAVE THE RIGHT TO CANCEL THIS LEASE WITHIN THREE BUSINESS DAYS AFTER EXECUTION OF THE LEASE BY NOTIFYING THE LESSEE THAT YOU HAVE CANCELED THIS CONTRACT. IN ORDER TO CANCEL THIS LEASE, YOU MUST EXECUTE A NOTICE OF CANCELLATION IN THE FORM PROVIDED BELOW, MAIL IT TO THE LESSEE AND REFUND ALL AMOUNTS PAID TO YOU BY THE LESSEE WITHIN THE THREE-DAY CANCELLATION PERIOD. THE MAILING MUST BE POSTMARKED WITHIN THE THREE-DAY CANCELLATION PERIOD TO BE EFFECTIVE.**

NOTICE OF CANCELLATION

I/WE HEREBY CANCEL THIS LEASE.

DATED:

SIGNATURE(S):  
\_\_\_\_\_  
\_\_\_\_\_

THE PERSON PRESENTING THIS LEASE TO YOU IS ☒ NOT ☐ A MEMBER OF THE AMERICAN ASSOCIATION OF PROFESSIONAL LANDMEN AND THEREFORE IS ☒ IS NOT ☐ SUBJECT TO A CODE OF CONDUCT. IF THE PERSON PRESENTING THIS LEASE TO YOU IS SUBJECT TO A CODE OF CONDUCT, A COPY OF THE CODE OF CONDUCT MUST BE PRESENTED TO YOU WITH THIS LEASE. IF APPLICABLE, THE CODE OF CONDUCT PROVIDES A DISPUTE RESOLUTION MECHANISM FOR ANY DISPUTE THAT YOU MAY HAVE REGARDING THE MANNER BY WHICH THIS LEASE WAS PRESENTED TO YOU. IF YOU HAVE ANY SUCH DISPUTE, YOU MAY INVOKE THE DISPUTE RESOLUTION MECHANISM OF THE CODE OF CONDUCT BY CONTACTING THE PERSON OR PERSONS DESIGNATED IN THE CODE OF CONDUCT. THE FAILURE OF THE LESSEE TO PAY ANY ROYALTIES TO YOU AS REQUIRED UNDER THE TERMS OF THE LEASE FOR A PERIOD OF FOUR CONSECUTIVE MONTHS OR MORE SHALL BE A DEFAULT UNLESS OTHERWISE PROVIDED BY LAW, AND WILL RESULT IN CANCELLATION OF THE LEASE APPLICABLE TO THE TARGET FORMATION OF THE WELL WITHIN THE SPACING UNIT, FOLLOWING WRITTEN NOTIFICATION TO THE LESSEE OF YOUR INTENT TO CANCEL AND SIXTY DAYS FOR THE LESSEE TO CURE THE DEFAULT. IF THE LESSEE HAS A BONA FIDE DISPUTE REGARDING THE GROUNDS FOR CANCELLATION, SUCH DISPUTE AND THE REASONS THEREFOR MUST BE PROVIDED TO YOU IN WRITING OR THE DEFAULT MUST BE CURED WITHIN SUCH SIXTY-DAY PERIOD. OTHERWISE THE LEASE SHALL BE CANCELED.

IN WITNESS WHEREOF, Lessor hereunto sets hand and seal.

Subscribing Witness	<u>Michael Kaiden</u>	(Seal)	<u>Bruce A Habberfield</u>	Date of Execution	<u>6-16-08</u>
	Michael Kaiden				
Subscribing Witness	<u>Michael Kaiden</u>	(Seal)	<u>Judith E Habberfield</u>	Date of Execution	<u>6/16/08</u>
	Michael Kaiden		Judith E Habberfield		

Document prepared by: Chesapeake Appalachia, L.L.C., P.O. Box 6070, Charleston, West Virginia 25362-0070

Signed: Michael Kaiden  
Michael Kaiden

**ACKNOWLEDGEMENT OF SUBSCRIBING WITNESS**

State of New York:

County of Steuben: ☒

On June 16, 2008 before me, the undersigned, a Notary Public in and for said State, personally appeared Michael Kaiden the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides in Washington County, Ohio that he knows **Bruce A. Habberfield and Judith E. Habberfield, husband and wife**, to be the individual(s) described in and who executed the foregoing instrument; that said subscribing witness was present and saw said **Bruce A. Habberfield and Judith E. Habberfield, husband and wife**, execute the same; and that said witness at the same time subscribed his/her/their names(s) as a witness thereto.

My commission expires 8/31/10  
Signature / Notary Public Janet L. Ayers  
Name / Notary Public (print) Janet L. Ayers

JANET L. AYERS  
NOTARY PUBLIC, STATE OF NEW YORK  
STEUBEN COUNTY NO. 4519113  
TERM EXPIRES 8/31/10

## ADDENDUM

Attached to and made a part of that certain Oil and Gas Lease dated ~~March 30~~ <sup>June 16</sup>, 2008, by and between Bruce A. Habberfield and Judith E. Habberfield, husband and wife of 2184 County Road 8, Canandaigua, New York 14424, as Lessors, and Chesapeake Appalachia, L.L.C., as Lessee, covering land in Milo Township, County of Yates, State of New York.

NOTWITHSTANDING the foregoing provisions hereof, it is understood and agreed:

It is understood that rights granted for the use of existing roads hereunder are not for use by the general public, but is limited to and for the use of Lessee, its successors, assigns, agents, employees, and contractors. Lessee agrees to provide repairs to any and all damages it caused as a result of using the roadway. Further, any related surface reclamation shall be done in a manner which restores said land as nearly to original contours as reasonably practical.

### Water Damage Clause

In the event any activity carried on by Lessee pursuant to the terms of this lease damages, disturbs, or injures Lessor's fresh water well or source located on these leased premises, Lessee shall at its sole cost and expense use its best efforts to correct any such damage, disturbance or injury.

- A. Lessee shall test Lessor's domestic water supply (as to quality and quantity) prior to the commencement of drilling operations on the Leasehold (the "Initial Test"). Upon completion of drilling operations on the Leasehold by Lessee (the "Operations"), Lessee shall, within two months time, conduct a subsequent test identical to the Initial Test to ensure that Lessor's domestic water supply has not been materially and adversely affected by the Operations.
- B. Lessee shall provide Lessor with a copy of both the Initial Test results and the Final Test results within 60 (sixty) days after each test is conducted.

### No Storage Rights Clause

Notwithstanding anything herein contained to the contrary, Lessee agrees the herein described leased premises shall not be used for the purpose of gas storage as defined by the Federal Energy Regulatory Commission. Any reference to gas storage contained in this lease is hereby deleted. If Lessor wishes to enter into an agreement regarding gas storage using the leased premises with a third party, Lessor shall first give Lessee written notice of the identity of the third party, the price or the consideration for which the third party is prepared to offer, the effective date and closing date of the transaction and any other information respecting the transaction which Lessee believes would be material to the exercise of the offering. Lessor does hereby grant Lessee the first option and right to purchase the gas storage rights by matching and tendering to the Lessor any third party's offering within 30 days of receipt of notice from Lessor.

### Compliance Clause

Lessee's operations on said land shall be in compliance with all applicable federal and state regulations.

### Location Approval Clause

Provided that Lessor is the current surface owner of the affected lands at the time of Lessee's surface operations, Lessee and Lessor to mutually agree on all drill sites, pipeline and access road locations, consent not to be unreasonably withheld, delayed or conditioned by Lessor.

### Reclamation Clause

Lessee shall construct or install all well sites, access roads and pipeline right-of-ways in a manner which would minimize any related soil erosion. Further, any related surface reclamation shall be done in a manner which restores said land as nearly to original contours and as nearly to the satisfaction of the Lessor as reasonably practical. Reclamation to be performed by Lessee shall include, but is not limited to the removal of all above-grade equipment, materials and debris (including disturbed vegetation), and the regrading of all disturbed areas, including the replacement or purchase/placement of soils suitable to support vegetative growth, as shall be evidenced by the growth of grass seed purchased and placed by the Lessee over the entire disturbed area.

### Ad Valorem Taxes Clause

Lessee agrees to pay 7/8ths of any increase in ad valorem taxes attributable to, or resulting from, the assessment of oil and gas due to production from the leased premises.

### Fence Clause

Upon Lessor's written request, Lessee shall at its sole cost, expense, and design install fencing around any well site(s), tank battery (ies) or facility(ies) installed on the leased premises by Lessee provided that Lessor is the current surface owner of the affected lands at the time of Lessee's surface operations.

**Hunting Clause**

No Construction, testing or field surveying or other access to the Leasehold for site development purposes shall be permitted or conducted at any time (during the lease term or any extensions) between the dates of October 15<sup>th</sup> and December 31<sup>st</sup> in any year. However, Lessee shall have the right to access the Leasehold during such periods solely for the purpose of completing drilling operations commenced prior to October 15 and to perform routine maintenance or emergency service for existing wells.

**Hold Harmless Clause**


Lessee agrees it will protect, save, **defend**, and keep Lessor harmless and indemnified against and from any penalty or damage or charges imposed for any violation of any laws or ordinances, whether occasioned by the neglect of Lessee or those holding under Lessee, and Lessee will at all times protect, indemnify, **defend** and save and keep harmless the Lessor against and from any and all loss, damage, or expense, including any injury or **death** to any person or property whomsoever or whatsoever arising out of or caused by any negligence of the Lessee or those holding under Lessee.

**Insurance Clause**

Lessee covenants and agrees that it shall, throughout the term of this Lease, maintain in force a policy of general liability insurance and workers compensation coverage, in forms and with such limits and insurers as are acceptable to the reasonable requirements of Lessor insuring all liability risks with respect to which Lessor is to be indemnified pursuant to the provisions of the immediately preceding Clause in this Addendum entitled "Hold Harmless Clause". A copy of the certificate of insurance will be provided to Lessor upon written request by Lessor prior to entry by Lessee upon the surface of the lands comprising the Lease for the purpose of conducting any surface operations. The initial limits of said liability coverage shall be in an amount not less than \$1,000,000.00 per occurrence.

**SIGNED FOR IDENTIFICATION:**

  
Bruce A. Habberfield

  
Judith E. Habberfield